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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF CORRECTIONS
LANSING

DANIEL H. HEYNS
DIRECTOR

DIRECTOR'S OFFICE MEMORANDUM 2012 - 35

EFFECTIVE: Immediately

DATE: November 19, 2012

TO: Executive Policy Team
Administrative Management Team
Wardens

FROM: Daniel H. Heyns, Director

SUBJECT: Prisoner Tax Withholding

To comply with Internal Revenue Service (IRS) regulations, the Department completes an IRS form 1099-MISC "Miscellaneous Income" for each prisoner who was paid \$600 for a work or school assignment during the prior taxable year. The Department is required to file a copy with the IRS and reviews a copy with the prisoner. The Internal Revenue Service has notified the Department that legal names and/or Social Security numbers reported for prisoners on the IRS form 1099-MISC often do not match IRS records and that the Department must take action to attempt to remedy this. To do so, the Department must request each prisoner assigned to work or school to complete either an IRS Form W-8 "Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding" or an IRS Form W-9 "Request for Taxpayer Identification Number and Certification form". The W-8 must be completed by prisoners who are not United States citizens. The W-9 must be completed by prisoners who are citizens. When completing the forms, the prisoner must provide his/her legal name and, on the W-9, provide his/her Social Security number. (Prisoners who have legally changed their names should include all past and current legal names.) More specific information has been provided to Wardens on the process to be followed to ensure these forms are completed as required by the IRS in a timely manner.

In accordance with IRS regulations, the Department is required to withhold income tax from work or school pay received by prisoners who are not United States citizens. The required rate for this withholding is 30% without any exceptions.

The Department is not required to withhold income tax from work or school pay received by prisoners who are United States citizens if the prisoner's legal name and/or Social Security number as reported on the W-9 is verified by the IRS. However, if this information cannot be verified by the IRS or if the prisoner does not have a Social Security number, IRS regulations require the Department to withhold income tax at the rate of 28%. If a prisoner's name and Social Security number as entered by the

prisoner on the W-9 cannot be verified by the IRS, the prisoner will be required to complete another W-9 in order to obtain the correct information. Once the information is verified by the IRS, the Department is authorized to stop further backup withholding and will immediately do so.

All backup withholding required to be collected by the IRS is remitted by the Department to the IRS. Only the IRS may determine if the prisoner is entitled to a refund of backup withholding collected by the Department. Any refund will be in accordance with IRS regulations and only if the prisoner files an annual tax return

The Administrator of the Bureau of Fiscal Management or designee in Operations Support Administration shall identify all prisoners subject to the 28 or 30% backup withholding. Prisoners who are subject to the 28 or 30% backup withholding will have their total payroll deposited into their trust account and the 28 or 30%, as appropriate, collected as a debt prior to any other debt collection. This may affect a prisoner's eligibility for indigency status. PD 04.02.120 "Indigent Prisoners" is revised effective 12/03/12 to address this issue.

A copy of relevant IRS regulations is available for prisoner review in the law library.